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Liniak Berenato Longacre & White
6550 Rock Spring Drive
Suite 240
Bethesda, MD 20817

In re Application of :
Tobiasz et al. :
Application No. 09/367,076 : DECISION ON
PCT No.: PCT/FR98/02698 :
Int. Filing Date: 11 December 1998 : PETITION UNDER
Priority Date: 11 December 1997 :
Atty. Docket No.: 1200.327 : 37 CFR 1.137(b)
For: Hydraulic Receiver For Clutch
Control, Notably For A Motor
Vehicle :
:

This is in response to the petition under 37 CFR 1.137(b) filed on 14 July 2003.

BACKGROUND

This international application was filed on 11 December 1998, claimed an earlier priority date of 11 December 1997, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 17 June 1999. No Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 20 month time period for paying the basic national fee in the United States expired at midnight on 11 August 1999.

On 09 August 1999, applicants filed *inter alia* the basic national fee.

On 30 September 1999, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed oath or declaration of the inventors.

On 10 August 2000, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the United States for failure to timely reply to the Notification of Missing Requirements.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a

question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied by a signed declaration of the inventors which complies with 37 CFR 1.497(a) and (b), and which therefore constitutes the required reply. However, it is noted that the declaration is defective in that it does not specifically identify the residences and mailing addresses of the inventors in that the country or countries in which those locations are situated is/are not specified; nor has this data been furnished in an application data sheet under 37 CFR 1.76.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

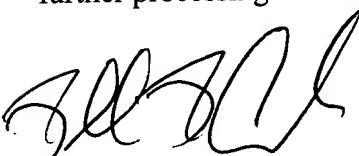
The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. At 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obliged under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **14 July 2003**.



Richard Cole
PCT Legal Examiner
PCT Legal Office



George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459